

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 3

A member of the Liquor Commission, Member X, requests an opinion of the Ethics Commission in connection with the following facts:

Member X is the personal attorney for a well-known entertainment personality, A. He is also the attorney for B Corporation, a Hawaii corporation, controlled by A and C Corporation, a foreign corporation authorized to do business in Hawaii which is jointly controlled by A and a third party. B Corporation holds liquor licenses at two separate locations in Honolulu. In addition A has contracted to entertain at a popular Honolulu night club. C Corporation is the lessee of a bar-restaurant which is run under a management agreement with a large restaurant chain.

In 1967, the premises under license to B Corporation appeared before the Liquor Commission on three separate transactions. Two were cases of alleged liquor law violations and one involved a transfer of a liquor license. In each of these instances, Member X disqualified himself and left the meeting during the pendency of the matter.

The question presented is whether Member X's position on the Liquor Commission is incompatible with his role as attorney for A and A's enterprises.

In the opinion of the Ethics Commission, the dual positions are incompatible and a conflict of interest situation exists as long as these dual positions are maintained by Member X.

The Liquor Commission is not merely an advisory body. It is an administrative and policy-making body in the administration and enforcement of the liquor laws. The policing staff of the Liquor Commission is under the control and direction of the Liquor Commission. Any member of the Liquor Commission by virtue of his membership thereof must of necessity exert indirect pressures on his fellow members and on the staff under the Commission's jurisdiction when there is under consideration the enforcement of liquor laws against a client known to be represented by a Liquor Commission member. These indirect pressures are not knowingly exerted by the representative-member. These pressures are exerted even if the representative-member disqualifies himself. These pressures exist as a matter of fact because of the dual relationship existing in the representative-member.

By the foregoing analysis, the Ethics Commission intends to cast no cloud of improper behavior upon Member X. On the contrary, Member X, by his voluntary actions - of disqualifying himself on the proper occasions, of seeking on his own initiative a ruling from his Commission as to his ethical status, of answering candidly the questions put to him by this Commission - is to be commended.

The Ethics Commission is of the opinion that under the totality of interests possessed by Member X in connection with A and A's activities, the continued maintenance of the dual role of Liquor Commissioner and attorney for A and A's interests would be violative of City Charter Section 11-101.3: No appointive officer or employee may engage in outside employment in any business or professional activity which may impair his independence of judgment in the exercise of his official duties, or which might require or induce him to disclose confidential information acquired by reason of his official position or which is otherwise inconsistent or incompatible with or which interferes with the proper discharge of his official duties.

Dated: Honolulu, Hawaii, January 11, 1968.

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